

January 13, 2009

The regular meeting of the Council of the City of Martinsville, Virginia, was held on January 13, 2009, in Council Chambers, Municipal Building, at 7:30 PM, with Mayor Kathy Lawson presiding. Council Members present included: Mayor Kathy Lawson, Vice Mayor Kimble Reynolds, Gene Teague, Mark Stroud, Sr., and Danny Turner. Staff present included: Clarence Monday, City Manager, Leon Towarnicki, Brenda Prillaman, Eric Monday, Wayne Knox, Mike Rogers, Linda Conover, Kenneth Draper, Kenith Shumate, and Gary Cody.

Following the invocation by Council Member Danny Turner and Pledge to the American Flag, Mayor Lawson welcomed everyone to the meeting.

On a motion by Gene Teague, seconded by Kimble Reynolds, Council approved with a 5-0 vote, the minutes of the December 8, 2008 Neighborhood meeting and December 9, 2008 meeting with the addition of this statement to December 9, 2008 minutes: Councilman Turner asked Perriello his feelings on coal fired plants and Perriello stated he is in favor of carbon capture. The same motion and second approved the minutes of the December 8, 2008 tour with a 4-0 vote with Mayor Lawson abstaining as she was not present at that meeting.

A representative of the Virginia Jaycees, Lynn Martin, made the Outstanding Young Virginians EMT Award presentation to Kenith Shumate of the Martinsville City Fire Department noting his past accomplishments and reasons he was selected.

The agenda item "presentation of Virginia Laws Enforcement Challenge Award to Martinsville City Police Department for their traffic safety accomplishments" was tabled to the February 10, 2009 meeting.

After comments from Wayne Knox, Mayor Lawson opened the public hearing to abandon a portion of Dalton Street (alley) located between 208 Fayette and 212 Fayette St., as shown on Tax Map 22. There being no comments from the public, Mayor Lawson closed the public hearing. On a motion by Gene Teague, seconded by Danny Turner, Council approved the abandonment, on the first reading, with the following 5-0 recorded vote: Mrs. Lawson, aye; Mr. Reynolds, aye; Mr. Teague, aye; Mr. Stroud, aye; and Mr. Turner, aye, to abandon the strip of land as described above.

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After comments from Wayne Knox, Mayor Lawson opened the public hearing to abandon an alley located between 702 Lesters Lane and 705 Liberty Street, as shown on Tax Map 12. There being no comments from the public, Mayor Lawson closed the public hearing. On a motion by Kimble Reynolds, seconded by Mark Stroud, Council approved the abandonment, on the first reading, with the following 5-0 recorded vote: Mrs. Lawson, aye; Mr. Reynolds, aye; Mr. Teague, aye; Mr. Stroud, aye; and Mr. Turner, aye, to abandon the strip of land as described above.

After comments from Wayne Knox, Mayor Lawson opened the public hearing to rezone property located at 1 Dudley Street known as 12(12)00XR on the Tax Map of the City of Martinsville from P-2 Professional to C-1 Commercial. There being no comments from the public, Mayor Lawson closed the public hearing. On a motion by Gene Teague, seconded by Kimble Reynolds, Council approved the rezoning, on the first reading, with the following 5-0 recorded vote: Mrs. Lawson, aye; Mr. Reynolds, aye; Mr. Teague, aye; Mr. Stroud, aye; and Mr. Turner, aye, to rezone property at 1 Dudley St. as described above.

Council agreed to set a public hearing for February 10, 2009 on a recommendation from the Planning Commission to consider adoption of the Martinsville Comprehensive Plan Update 2009. Wayne Knox briefed Council on the process in producing the Comprehensive Plan document and those involved. West Piedmont Planning District Commission staff members were instrumental in producing this document and it was noted the city receives this great benefit from that organization at no extra cost to the city. Copies are available in the public library and in the Community Development office for public review. Council member Teague requested that the document be made available electronically on the city's website as well.

The agenda item "consider adoption of 2007 Retirement Legislation for Police and Fire Department" was tabled to the March 10, 2009 meeting.

Council reviewed outside agency quarterly reports (2nd quarter) submitted by agencies that received FY09 city funding. Vice Mayor Reynolds indicated he would email his comments. Mayor Lawson pointed out Council will be reviewing the reporting procedures for outside agencies during budget discussions.

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On a motion by Gene Teague, seconded by Mark Stroud, with the following 4-1 recorded vote: Mrs. Lawson, aye; Mr. Reynolds, aye; Mr. Stroud, aye; Mr. Teague, aye; and Mr. Turner, nay, Council adopted the following resolution authorizing the execution of an agreement providing for the obligations to the City, to consider Phase II appropriations to the Industrial Development Authority (IDA) of Henry County and Henry County for financing of a shell building:

**RESOLUTION AUTHORIZING THE EXECUTION OF A BANK QUALIFICATION
ALLOCATION AGREEMENT WITH REGARD TO THE FINANCING OF A SHELL
BUILDING FOR ECONOMIC DEVELOPMENT PURPOSES AT THE PATRIOT
CENTER INDUSTRIAL PARK**

WHEREAS, the City Council (the "City Council") of the City of Martinsville, Virginia (the "City"), previously agreed to assist Henry County, Virginia ("Henry County") and the Industrial Development Authority of Henry County, Virginia (the "Henry County IDA") in connection with the financing of all or a portion of the costs associated with the design, construction and equipping of a shell building on Lot 10 located in the Patriot Center Industrial Park for use in economic development efforts to attractive commercial businesses to locate in the area, together with related costs and expenses (collectively, the "Project");

WHEREAS, pursuant to that certain Revenue Sharing Agreement dated as of April 30, 2002 by and among the City, Henry County and the Henry County IDA (the "Revenue Sharing Agreement"), the parties have agreed, among other things, that when a business locates on one of the designated sites on the Property, Henry County will pay to the City, on a subject to appropriation basis, one-third of all revenues generated by the real estate, personal property, machinery and tools, and consumer utility taxes collected by Henry County from the business located on such site, after Henry County is reimbursed for infrastructure costs in excess of grant funds and after repayment of any cash incentives that may be paid by the County;

WHEREAS, the Project will be financed through the issuance by the Henry County IDA of its Lease Revenue Bonds (Henry County Shell Building Project), in the aggregate principal amount of \$3,500,000 consisting of the \$1,500,000 Lease Revenue Bond, Series 2008 (the "Series 2008 Bond") that was issued on December 18, 2008 and the Henry County IDA \$2,000,000 Lease Revenue Bond, Series 2009 to be issued in January, 2009 (the "Series 2009 Bond") (the Series 2008 Bond and the Series 2009 Bond shall collectively be referred to as the "Bonds");

WHEREAS, a Bank Qualification Allocation Agreement with respect to the Series 2008 Bond has previously been approved by City Council;

WHEREAS, the City Council has previously expressed its intention to designate an allocation by the City of approximately 33% of the Series 2009 Bond as "qualified tax-exempt obligations" for purposes of Section 265(b)(3)(C)(III) of the Code once the Series 2009 Bond is issued in 2009;

WHEREAS, a Bank Qualification Allocation Agreement with respect to the Series 2009 Bond is hereby presented to the City Council for consideration:

NOW, THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF MARTINSVILLE, VIRGINIA:

1. It is determined to be in the best interests of the City and its citizens for the City Council to enter into a Bank Qualification Allocation Agreement with respect to the Series 2009 Bond in connection with the Project.

2. The City Council hereby consents to the execution and delivery of the Bank Qualification Allocation Agreement with respect to the Series 2009 Bond and authorizes and directs either the Mayor, Vice-Mayor or the City Manager to execute such document on behalf of the City.

3. The City acknowledges and agrees that an allocation to the City of approximately 33% of the principal amount of the Series 2009 Bond for purposes of Section 265(b)(3)(C)(iii) of the Internal Revenue Code of 1986, as amended (the "Code") represents a reasonable allocation bearing a reasonable relationship to the benefits to be received by the City from the issuance of the Series 2009 Bond in connection with the financing of the Project. The City hereby designates its reasonable allocation of the benefits to be received from the issuance of the Series 2009 Bond, as "qualified tax-exempt obligations" for the purpose of Section 265(b)(3) of the Code. The City (together with its subordinate entities) does not reasonably anticipate issuing more than \$10,000,000 in bonds, notes, leases or other obligations of the City (excluding private activity bonds which are not qualified 501(c)(3) bonds under Section 145 of the Code) during calendar year 2009, and the City (together with its subordinate entities) has not and will not designate more than \$10,000,000 of qualified tax-exempt obligations pursuant to Section 265(b)(3) of the Code during such calendar year. The City Manager and Assistant City Manager are each hereby authorized and directed to execute and deliver a bank-qualification allocation agreement or similar agreement necessary to further effectuate the foregoing.

4. This resolution shall take effect immediately.

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CERTIFICATE

The undersigned Clerk of the City Council of the City of Martinsville, Virginia hereby certifies that the foregoing is a true, correct and complete copy of a resolution duly adopted by a majority of the members of the City Council of the City of Martinsville, Virginia present and voting during the meeting duly called and held on January ___, 2009, and that such resolution has not been repealed, revoked, rescinded or amended, but is in full force and effect on the date hereof. A summary of the members present or absent at such meeting, and the recorded vote with respect to the foregoing resolution, is set forth below:

MEMBER NAME	VOTING				
	PRESENT	ABSENT	YES	NO	ABSTAINING
Kathy Lawson	_____	_____	_____	_____	_____
Kimble Reynolds	_____	_____	_____	_____	_____
M. Gene Teague	_____	_____	_____	_____	_____
Mark C. Stroud, Sr.	_____	_____	_____	_____	_____
Danny Turner	_____	_____	_____	_____	_____

WITNESS my hand and the seal of the County this ___ day of January, 2009.

City Clerk, City Council,
City of Martinsville, Virginia

(SEAL)

After comments by Assistant City Manager Leon Towarnicki and Amanda Witt, President of the Chamber, and on a motion by Gene Teague, seconded by Danny Turner, Council approved with a 5-0 vote the following contract with the City of Martinsville and Martinsville-Henry County Chamber of Commerce regarding Martinsville Mustangs:

THIS AGREEMENT made this _____ day of December, 2008 by and between the MARTINSVILLE-HENRY COUNTY CHAMBER OF COMMERCE ("Chamber"), a Virginia Non-Stock Corporation, and the CITY OF MARTINSVILLE ("City"), a municipal corporation of the Commonwealth of Virginia:

WHEREAS the City owns a municipal baseball team named the "Martinsville Mustangs" and wishes to maximize the revenue generated by this team; and

WHEREAS the Chamber desires to assist the City in maximizing said revenue and agrees to use its best efforts and its customer and client base in doing so;

NOW THEREFORE WITNESSETH: that for in consideration of \$15,000.00 paid by City to Chamber, within 45 days of the execution hereof, the sufficiency of which is hereby acknowledged,

1. Chamber shall undertake its best efforts to (a) sell advertisements to any and all interested parties, for display during the Mustangs' season and (b) maximize paid attendance, souvenir, and concessions purchases at the Mustangs' games. The Chamber shall enjoy complete discretion in the manner and form of achieving these goals.
2. Once advertising revenue achieves \$60,000.00, the parties shall divide additional advertising revenue up to \$5,000 equally, resulting in a potential "bonus" of \$2,500 to the Chamber.
3. Once the total of beer, souvenir, gate, and concession sales exceeds \$75,515.00 (2008 totals), the parties shall divide additional sales up to \$5,000 equally, resulting in a potential "bonus" of \$2,500.
4. Total compensation to the Chamber shall not exceed \$20,000 for the 2009 season.
5. The City shall continue to expend its fixed costs for advertising, attendance and concessions, as determined by the average of such expenditures for the years 2006, 2007 and 2008, as calculated by the City.
6. The Chamber may at its own expense undertake such additional expenditures as it deems necessary to maximize revenue.
7. This agreement shall be governed by the laws of the Commonwealth of Virginia; any dispute arising from its interpretation or application shall be venued in the Circuit Court of the City of Martinsville. It shall endure for a term of one year and shall not be renewed unless agreed upon by both parties.

Witness the following duly authorized signatures:

City

Chamber

Clarence C. Monday
City Manager

Amanda C. Witt
President

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On a motion by Gene Teague, seconded by Kimble Reynolds, Council approved, with a 5-0 vote, the following consent agenda:

BUDGET ADDITIONS FOR 1/13/2009				
ORG	OBJECT	DESCRIPTION	DEBIT	CREDIT
<u>FY09</u>				
<u>GENERAL FUND</u>				
01100908	440402	Miscellaneous Revenue - Donation - Hooker Field		955
01720420	506014	Hooker Field - Field Materials & Supplies (donation from Nelson Ford for field maintenance)	955	
01100909	490104	Advanced/Recovered Cost		1,500
01211070	503127	Circuit Court - General Professional Services (per donation agreement with Judge Greer)	1,500	
01100909	490104	Advanced/Recovered Cost		1,628
01217078	506008	Sheriff - Courts - Vehicle Equip & Maint (insurance from deer damage)	1,628	
Total General Fund:			4,082	4,082
<u>ELECTRIC FUND</u>				
14100909	490104	Electric - Recovered Costs		2,231
14564339	506008	Electric - Construction - Vehicle Equip & Maint (insurance reimb for accident damage to T-3)	2,231	
Total Electric Fund:			2,231	2,231

The agenda item “consider discussion of Treasurer vacancy” was tabled to the January 27, 2009 meeting.

Business from the floor: no comments were made.

Comments by Council members: Stroud—pointed out that city staff is already looking into energy audit for city buildings and schools and he stressed that the City needs to be sure we are on the list for the retrofit money in the stimulus package. Turner--asked that Council direct the City Manager to send letters and resolutions to federal legislators and the president asking for local projects to be included in the infrastructure stimulus package. Projects to highlight include constructing I-73 from Henry County to a connection in North Carolina, complete four-laning of U.S.58 through Southside and Southwest Virginia and prepare the Roma industrial site near Ridgeway for development. Turner also asked this be a cooperative, regional approach with adjoining localities. Mayor Lawson--thanked West Piedmont Planning District Commission for outstanding work on the comp plan; thanked volunteers who serve on city's boards and encouraged all citizens to become active in government noting there are vacancies to be filled; pointed out she is soliciting financial assistance from

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other elected city officials to accomplish the two programs she is working on with Dr. Kizner including the 7th grade essay contest on the topic If I Were Mayor and a \$250 book scholarship for a senior at Martinsville High School.

Comments by City Manager: introduced new Leisure Services Director Gary Cody—Gary Cody reported a new survey has been posted on the Leisure Services website seeking public feedback on how often parks are used and what kind of programs people would like to see offered; reported ongoing work on budget and reviewed timeline with Council advising budget to be presented to Council in April with budget worksessions taking place in May; reported a meeting is planned to review some older debt which the city may be able to refinance at a better interest rate to lower costs and save money; reported the Goals document has been completed and given to Council for any changes. The Mayor asked that Council members review the final copy for further discussion and consideration for approval at the next meeting and allow public input.

In accordance with Section 2.1-344 (A) of the Code of Virginia (1950, and as amended) and upon a motion by Kimble Reynolds, seconded by Gene Teague, with the following 5-0 recorded vote: Mrs. Lawson, aye; Mr. Reynolds, aye; Mr. Stroud, aye; Mr. Teague, aye; and Mr. Turner, aye, Council convened in Closed Session, for the purpose of discussing the following matters: (A) Appointments to boards and commissions as authorized by Subsection 1; (B) Consultation with legal counsel and briefings by staff members, attorneys or consultants pertaining to actual or probable litigation, or other specific legal matters requiring the provision of legal advice by such counsel, as authorized by Subsection 7.

At the conclusion of Closed Session, each returning member of Council certified that (1) only public business matters exempt from open meeting requirements were discussed in said Closed Session; and (2) only those business matters identified in the motion convening the Closed Session were heard, discussed, or considered during said Session. On a motion by Gene Teague, seconded by Mark Stroud, with the following 5-0 recorded vote: Mrs. Lawson, aye; Mr. Reynolds, aye; Mr. Stroud, aye; Mr. Teague, aye; and Mr. Turner, aye, Council returned to Open Session.

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On a motion by Gene Teague, seconded by Mark Stroud, with a 5-0 vote, Council appointed Connie Romanuski of 343 Mountain View Road and Michael Hendricks of 903 Gates Street to the newly formed Green Committee. The Green Committee at this time is an ad hoc committee whose ending date has not been decided.

On a motion by Kimble Reynolds, seconded by Gene Teague, with a 5-0 vote, Council re-appointed Gail Vogler of 301 Oakdale Street to Southern Area Agency on Aging for a 3 year term ending 2/28/12.

On a motion by Danny Turner, seconded by Kimble Reynolds, with a 5-0 vote, Council appointed Ron Epperly of 1704 Meadowview Lane to Southern Virginia Recreation Facilities Authority for an unexpired 4 year term ending 10/31/10.

No other action was taken.

There being no further business, Mayor Lawson adjourned the meeting at 9:30 PM.

Clarence C. Monday
Clerk of Council

Kathy C. Lawson
Mayor